



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,621	10/30/2003	Charles Brewer	410-1-014	9892
20551 7590 04/09/2007 THORPE NORTH & WESTERN, LLP. 8180 SOUTH 700 EAST, SUITE 200 SANDY, UT 84070			EXAMINER ABBOTT, YVONNE RENEE	
			ART UNIT	PAPER NUMBER
			3644	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/698,621

Applicant(s)

BREWER

Examiner

Yvonne R. Abbott

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-5, 7, 18, 22-30 is/are rejected.
- 7) ☒ Claim(s) 8-12, 14-17 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Allowable Subject Matter

1. The indicated allowability of claim 21 is withdrawn in view of the newly discovered reference(s) . Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3, 4, 5, 7, 18, 21, 22, 23, 25, 26, 27, 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strausser (6192909) in view of Welker (4161924). Strausser shows a shelter capable of housing a pet comprising a rectangular lower frame including removable legs which rest on a supporting surface to support the frame on that supporting surface, wherein at least one leg includes a foot portion (5) having a tab extending from the foot portion of the at least one leg; air permeable, nylon mesh fabric (21) attached to the lower frame to form a pet supporting floor; a preshaped substantially rigid and shape retaining upper frame cooperable with the lower frame and removable with respect thereto to define a space above the pet supporting floor; a cover that fits removably over the upper frame to create an enclosure over the pet supporting floor which includes a vent and a removable flap; and an opening (14) in the cover where a pet can enter and leave the pet house; wherein the lower frame is

Art Unit: 3644

substantially rectangular and includes four removable legs (4); wherein the storage compartment (33) forms a pad over the supporting floor that is capable of providing insulation; and wherein the lower frame and fabric form a cot when the upper frame is removed. Although the fabric is mesh material it is not disclosed as PVC coated polyester, mesh, polyester, and nylon materials are well known, and it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the fabric of a PVC coated polyester mesh material for durability and since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Strausser, however, does not show with a hole therein through which a stake can be positioned for staking the at least one leg to the supporting surface. Welker teaches a shelter having legs (40) with feet portions (45) with extending tabs with holes therein through which stake (130) pass for staking the legs to the support surface. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide that the feet portion of the Strausser shelter have holes therein to accommodate stakes as taught by Welker in order to secure or anchor the housing to the ground.

4. Claims 24, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strausser in view of Welker as applied to claim 21 above, and further in view of Ipsen, Jr. (3848279). Although Strausser discloses a cover supported on upper and lower frames, it is not disclosed that the cover includes fastener portions which mate

the upper and lower frames with one another. Ipsen, Jr. shows a shelter having upper and lower frame covers which mate via snaps (44). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide means of fastening the upper and lower frame covers to one another to provide a more secure barrier around the periphery of the structure.

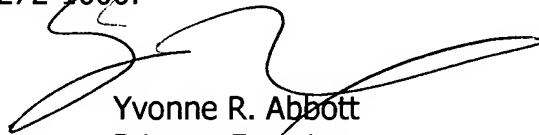
Allowable Subject Matter

5. Claims 8-12, 14-17, 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne R. Abbott whose telephone number is (571) 272-6896. The examiner can normally be reached on Monday-Thursday 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on (571) 272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Yvonne R. Abbott
Primary Examiner
Art Unit 3644